



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2023-0176]

RIN 1625-AA08

Special Local Regulation; Sail Grand Prix, Season 3 Race Event; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary special local regulation in the navigable waters of San Francisco Bay in San Francisco, CA in support of the San Francisco Sail Grand Prix, Season 3 race periods on May 4, 2023, through May 7, 2023. This special local regulation is necessary to provide for the safety of life on these navigable waters and to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing activities associated with the Sail Grand Prix race event. This proposed rulemaking would temporarily prohibit persons and vessels from entering, transiting through, anchoring, blocking, or loitering within the event area adjacent to the city of San Francisco waterfront near the Golden Gate Bridge and Alcatraz Island, unless authorized by the Captain of the Port San Francisco or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2023-0176 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Anthony I. Solares, U.S. Coast Guard District 11, Sector San Francisco, at 415-399-3585, SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
COTP	Captain of the Port
PATCOM	Patrol Commander
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On December 19, 2022, the Silverback Pacific Company notified the Coast Guard of an intention to conduct the “Sail Grand Prix, Season 3” in the San Francisco Bay. Sail Grand Prix (SailGP) is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The 2022-2023 season started May 14, 2022, and the season will conclude with the San Francisco Bay race in May 2023. In San Francisco, they propose to take advantage of the natural amphitheater that the central bay and city waterfront provide.

SailGP has applied for a Marine Event Permit to hold the Sail Grand Prix race event on the waters of San Francisco Bay in California. At this time, the Coast Guard has not approved the Marine Event Permit and is still evaluating the application. If the permit is approved, however, we anticipate that a special local regulation may be necessary to ensure public safety during the race. To provide adequate time for public input, we are proposing this special local regulation prior to a decision on the Marine Event Permit.

The SailGP event has previously been conducted in San Francisco Bay and each time the Coast Guard solicited input from maritime stakeholders to better understand the nature of commercial and recreational activities on the Bay. As done in previous year planning, the Coast Guard will participate in local Harbor Safety Committee (HSC) meetings to meet with

stakeholders, obtain information, and gather feedback on approaches to enact the regulation in connection with the Sail Grand Prix.

These regulations are needed to keep persons and vessels away from the sailing race vessels, which exhibit unpredictable maneuverability and have a demonstrated likelihood during the simulation of racing scenarios for capsizing. The proposed special local regulation would help prevent injuries and property damage that may be caused upon impact by these fast-moving vessels. The provisions of this temporary special local regulation would not exempt racing vessels from any federal, state, or local laws or regulations, including Nautical Rules of the Road. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70041 .

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR 1.05-1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

III. Discussion of Proposed Rule

The COTP San Francisco proposes to establish a special local regulation associated with the Sail Grand Prix race event from noon to 5:30 p.m. each day from May 4, 2023, through May 7, 2023. The areas regulated by this special local regulation would be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard proposes to establish a primary race area, a spectator area, and a waterfront passage area. An image of these proposed regulated areas may be found in the docket. The special local regulation will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48'24.3" N, 122°27'53.5" W; thence to 37°49'15.6" N, 122°27'58.1" W; thence to 37°49'28.9" N, 122°25'52.1" W; thence to 37°49'7.5" N, 122°25'13" W; thence to 37°48'42" N, 122°25'13" W; thence to 37°48'30.5" N, 122°26'22.6"

W; thence along the shore to 37°48'26.9" N, 122°26'50.5" W and thence to the point of beginning.

Located within this footprint, there will be three separate regulated areas: Zone "A", the Official Practice Box Area; Zone "B", the Official Race Box Area; and Zone "C", the Spectator Area.

Zone "A", the Official Practice Box Area, will be marked by colored visual markers. The position of these markers would be specified via Local Notice to Mariners at least two weeks prior to the event and via Broadcast Notice to Mariners at least seven days prior to the event. Zone "A" would be used by the race and support vessels during the official practice period on May 4, 2023, and May 5, 2023. Zone "A", the Official Practice Box Area, will be enforced during the official practices from noon to 5:30 p.m. on May 4, 2023, and from noon to 5:30 p.m. on May 5, 2023, or as announced via Broadcast Notice to Mariners. Excluding the public from entering Zone "A" is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone "B", the Official Race Box Area, would be marked by 12 or more colored visual markers. The position of these markers would be confirmed via Broadcast Notice to Mariners at least three days prior to the event. Only designated Sail Grand Prix 2021 race, support, and VIP vessels would be permitted to enter Zone "B". Zone "B", the Official Race Box Area, will be enforced during the official practices from noon to 5:30 p.m. on May 6, 2023, and from noon to 5:30 p.m. on May 7, 2023. Because of the hazards posed by the sailing competition, excluding non-race vessel traffic from Zone "B" is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone "C", the Spectator Area, would be within the special local regulation area designated in paragraph (a) and outside of Zone "B", the Official Race Box Area. Zone "C" will be defined by latitude and longitude points per Broadcast Notice to Mariners. Zone "C" will be managed by marine event sponsor officials. Vessels would be prohibited from anchoring within

the confines of Zone “C.”

The duration of the establishment of the proposed special local regulation is intended to ensure the safety of vessels in these navigable waters during the scheduled practice and race periods. This proposed temporary special local regulation would temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration and is limited to a narrowly tailored geographic area with designated and adequate space for transiting vessels to pass when permitted by the COTP or a designated representative. In addition, although this proposed rule restricts access to the waters encompassed by the special local regulation, the effect of this proposed rule will not be significant because the local waterway users will be notified in advance via public Broadcast

Notice to Mariners to ensure the special local regulation will result in minimum impact.

Therefore, mariners will be able to plan and transit outside of the periods of enforcement of the special local regulation, or alternatively, they will be able to transit the city of San Francisco Waterfront with approval from the COTP or designated representative. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing for a limited duration. This special location regulation would not have a significant economic impact on a substantial number of small entities for the reasons stated in Section IV.A above. When the special local regulation is in effect, vessel traffic can pass safely around the regulated area. The maritime public would be advised in advance of this special local regulation via Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you

have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. §§ 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one

year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation that would create regulated areas of limited size and duration that includes defined regulated areas for vessel traffic to pass. Normally such actions are categorically excluded from further review under paragraphs L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit through the Federal Decision

Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0176 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T11-0122 to read as follows:

§ 100.T11-122 Special Local Regulation; Sail Grand Prix 2021 Race Event, San Francisco,

CA

(a) *Regulated area.* The regulations in this section apply to all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following latitude and longitude points, beginning at 37°48'24.3" N, 122°27'53.5" W; thence to 37°49'15.6" N, 122°27'58.1" W; thence to 37°49'28.9" N, 122°25'52.1" W; thence to 37°49'7.5" N, 122°25'13" W; thence to 37°48'42" N, 122°25'13" W; thence to 37°48'30.5" N, 122°26'22.6" W; thence along shore to 37°48'26.9" N, 122°26'50.5" W and thence to the point of beginning.

(b) *Definitions.* As used in this section:

(1) "*Designated representative*" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the special local regulation.

(2) *Zone "A"* means the Official Practice Box Area. This zone will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°49'19" N, 122°27'19" W; thence to 37°49'28" N, 122°25'52" W; thence to 37°48'40.9" N, 122°25'43.6" W; thence to 37°49'7.5" N, 122°25'13" W and thence to the point of beginning. These coordinates are the current projected position for the Official Practice Box Area and will also be announced via Broadcast Notice to Mariners.

(3) *Zone "B"* Zone "B" means the Official Race Box Area, which will be marked by 12 or more colored visual markers within the special regulation area designated in paragraph (a) of this section. The position of these markers will be specified via Broadcast Notice to Mariners at least three days prior to the event.

(4) *Zone "C"* means the Spectator Area, which is within the special local regulation area designated in paragraph (a) of this section and outside of Zone "B," the Official Race Box Area.

Zone “C” will be defined by latitude and longitude points per Broadcast Notice to Mariners and will be managed by marine event sponsor officials. Vessels shall not anchor within the confines of Zone “C.”

(c) *Special Local Regulation.* The following regulations apply between noon and 5:30 p.m. on the Sail Grand Prix official practice and race days.

(1) Only support and race vessels will be authorized by the COTP or designated representative to enter Zone “B” during the race event. Vessel operators desiring to enter or operate within Zone “A” or Zone “B” must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone “A” on VHF-23A.

(2) Spectator vessels in Zone “C” must maneuver as directed by the COTP or designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful direction issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(3) Spectator vessels in Zone “C” must operate at safe speeds, which will create minimal wake.

(4) Vessels with approval from COTP or designated representative to transit through the associated event zones shall maintain headway and not loiter or anchor within the confines of the regulated area.

(5) Rafting and anchoring of vessels is prohibited within the regulated area.

(d) *Enforcement periods.* This special local regulation will be enforced for the official practices and race events from noon to 5:30 p.m. each day from May 4, 2023, through May 7, 2023. At least 24 hours in advance of the official practice and race events commencing on May 4, 2023, the COTP will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners and in writing via the Coast Guard Boating Public

Safety Notice.

Dated: February 28, 2023.

Jordan M. Baldueza,

Captain, U.S. Coast Guard,

Alternate Captain of the Port, San Francisco.

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